IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3917 OF 2005
IN
CRIMINAL APPEAL NO.1481 OF 2004

Shri Shivu Chandram Loni — Appellant
vs.
State of Maharashtra — Respondent

Mr.Anilkumar K. Patil for the appellant.

Mr.A.S.Shitole, APP for the State.

CORAM : SMT. RANJANA DESAI &
SHRI ANOOP V. MOHTA, JJ.

DATED : 13th October 2005

P.C.

The appellant has been convicted by the IIIrd Additional Sessions Judge, Sangli for the offence punishable under Section 302 of the I.P.C. He is sentenced to life imprisonment. It is alleged by the prosecution that the appellant poured kerosene on the person of the deceased Shakuntala Bhimraya Birajdar and set her on fire. Shakuntala Birajdar succumbed to the burn injuries. The prosecution story rests interalia on three dying declarations. The deceased is said to have made dying declarations made before father, to constable and to the doctor. The learned counsel for the appellant points out that so far as the dying declaration made to the father is concerned, it is disbelieved. He contended that even the dying

declaration allegedly made to the constable is discrepant. In fact, there are inconsistencies between the dying declaration made to the doctor and to the constable and the learned Sessions Judge erred in placing the reliance on the said dying declarations. He further contended that the deceased had 70% burn injuries and she was not in fit condition to make dying declaration. Hence the dying declarations ought not to have been believed. The learned counsel contended that there are discrepancies as regards spot where the alleged incident has taken place. He further submitted that the appellant was on bail during trial and hence this is a fit case where he should be released on bail.

2. We are not impressed by any other submissions of the learned counsel. We have no reason to disbelieve the doctor, who says that the deceased told him that it is the appellant who poured kerosene on her and set her on fire. The doctor's evidence prima facie is supported by the evidence of the constable before whom another dying declaration is made. We are, therefore, of the prima facie opinion that the appellant is involved in the incident in question. The appellant cannot be released on bail at this stage. However, should the appeal be not heard finally for a period of three years from today, the appellant will be at liberty to apply for bail. Needless to say that at that stage, the

appellant's bail application will be considered by the Court independently.

3. Application is disposed of accordingly.

(SMT. RANJANA DESAI,J.)

(ANOOP V. MOHTA, J.)